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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF WASHINGTON
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7 JOHN FRANCIS LEIN,)
8 Plaintiff,) No. CV-09-260-JPH
9 v.) ORDER GRANTING STIPULATED
10 MICHAEL J. ASTRUE,) MOTION TO REMAND
11 Commissioner of Social) (Ct. Rec. 10)
12 Security,)
Defendant.)

13 The parties have filed a stipulated motion for remand of this
14 case to the Commissioner for further administrative proceedings
15 (Ct. Rec. 10). The parties have filed a consent to proceed before
16 a magistrate judge (Ct. Rec. 4).

17 After considering the stipulated motion, **IT IS ORDERED** that
18 the motion is **GRANTED**. The above-captioned case is reversed and
19 remanded for further administrative proceedings pursuant to
20 sentence four of 42 U.S.C. § 405(g), as incorporated through 42
21 U.S.C. § 1383(c)(3), including further development of the record,
22 a de novo hearing and the following:

23 On remand, the ALJ will (1) give plaintiff an opportunity for
24 hearing; (2) consider any additional evidence presented by
25 plaintiff, including any proffered witness testimony; (3) reassess
26 plaintiff's RFC and (4) obtain supplemental vocational expert
27 testimony to assist in determining whether plaintiff's impairments
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ORDER GRANTING STIPULATED MOTION
FOR ORDER TO REMAND - 1

1 affect his ability to perform work-related activities at steps
2 four and five of the sequential evaluation.

3 In addition, plaintiff filed a subsequent claim for benefits on
4 July 7, 2009. The ALJ will associate the claim files and issue a
5 new decision on the consolidated claims.

6 Because this remand is pursuant to sentence four of 42 U.S.C.
7 § 405(g) with a remand of the cause to the Commissioner for
8 further proceedings (*See, Melkonyan v. Sullivan*, 501 U.S. 89
9 (1991)), plaintiff is entitled to reasonable attorney's fees and
10 costs pursuant to 28 U.S.C § 2412(a),(d), upon proper request to
11 this Court.

12 Accordingly, this court **reverses** the Commissioner's decision.

13 **IT IS FURTHER ORDERED:**

14 1. The parties' stipulated motion for an order of remand
15 (**Ct. Rec. 10**) is **GRANTED**.

16 2. Judgment shall be entered for the **PLAINTIFF**.

17 3. An application for attorney fees and costs may be
18 filed by separate motion.

19 4. The District Court Executive is directed to enter
20 this Order, forward copies to counsel, and **close** this file.

21 **DATED** this 23rd day of November, 2009.
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23 s/James P. Hutton
24 JAMES P. HUTTON
25 UNITED STATES MAGISTRATE JUDGE
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